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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/855,369	05/15/2001	Douglas M. VanDeRiet	3591-1092	8754

7590

08/14/2002

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EXAMINER

HARRIS, STEPHANIE N

ART UNIT

PAPER NUMBER

3636

DATE MAILED: 08/14/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/855,369

Applicant(s)

VANDERIET ET AL.

Examiner

Stephanie N. Harris

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 July 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 7.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the user" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1, 2, 4, 5, 8, 9, 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Yang (USPN 5503455).

Yang discloses a chair comprising a frame (10) having a series of grasping members (11) located around a circumference of the frame and fabric (20) as seen in Figure 2. The series of grasping members (11) secure the fabric (20) to the frame (10) as seen in Figure 1. The fabric (20) provides a body support surface exposed to a user. The grasping members (11) comprise teeth extending upward from the frame (10) as seen in Figure 3. The grasping members (11) comprise an undercut area along an outside of the grasping members as seen in Figure 3. The fabric comprises holes (21) that the grasping members protrude through thereby securing the fabric to the frame as seen in Figure 3. A cover (30) is installed onto the frame and over grasping members as seen in Figure 2. The cover is flexible and can be installed onto the frame by flexing the cover onto the frame.

Regarding claim 14, Figure 3 shows the frame further comprises a raised ridge disposed along an inner circumference of the grasping members and a recessed channel disposed between the raised ridge and the grasping members that extends to a base of the grasping members.

Claims 1, 10, and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Levine (USPN 2864438).

Levine discloses a chair comprising a frame (36, 37) having a series of grasping members (39) located around a circumference of frame (36,37) and fabric (41). The

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grasping members secure the fabric to the frame. The fabric provides a body support surface exposed to a user. The frame (36,37) comprises a retention slot comprising a first hole that is larger than a head of a pin and a second hole that is smaller than the head as seen in Figures 5 and 7. The retention slot further comprises a retention pad (40) between the first and second hole that retains a shaft of the pin (42) within the second hole.

Claims 1, 10, and 12 are rejected under 35 U.S.C. 102(e) as being anticipated by Fujita et al. (USPN 6315364).

Fujita et al. discloses a chair comprising a frame (12) with a series of grasping members (30) located around a circumference of the frame and fabric (10) as seen in Figures 8 and 9. The series of grasping members (30) secure the fabric (10) to the frame (12). The fabric (10) provides a body support surface exposed to a user. The frame (12) comprises a retention slot comprising a first hole located at the top element (8) that is larger than a head of a pin (32) and a second hole that is located at the bottom of element (8) adjacent element (34) that is smaller than the head of a pin (32) as seen in Figure 9. The retention slot further comprises a retention tab (36) that prevents longitudinal movement of the pin (32) when the pin is installed in the second hole as seen in Figure 9.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6, 7, 15, 16, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yang.

Yang discloses the claimed invention except for the use of a knit fabric with interlocked and lateral elastomer threads and longitudinal polyester. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use knit fabric with interlocked and lateral elastomer threads and longitudinal polyester, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yang in view of Koa (USPN 5067773).

Yang has been described above noting Figures 1-3. Yang shows all of the teachings of the claimed invention but fails to show the use of grasping members with a rounded top and a base. Koa discloses grasping members (52) that have a rounded top and base as seen in Figure 4. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the grasping members of Yang with the rounded top grasping members, as shown by Koa, in order to provide a more secure fit.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fujita et al.

Fujita et al. has been described above noting Figure 7-9. Fujita et al. further comprising a chair frame (8) with a hole receiving a shaft of the pin (32) and a nut (34) pressed onto an end of the pin shaft thereby attaching the frame to the chair frame as seen in Figure 9. Fujita et al. shows all of the teachings of the claimed invention but fails to positively recite the use of a tinnerman nut. It would have been an obvious matter of design choice to use a tinnerman nut, since applicant has not disclosed that the use of a tinnerman nut solves any stated problem or is for any particular purpose and it appears that the invention would perform equally as well with another type of nut.

Claim 18 rejected under 35 U.S.C. 103(a) as being unpatentable over Yang in view of Fujita et al.

Yang and Fujita et al. have been described above. Yang shows all of the teachings of the claimed invention but fails to show the use of a retention slot. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the frame of Yang with the retention slot, as shown by Fujita et al., in order to provide a more secure fit for the fabric onto the frame.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents are cited to further show the state of the art with respect to chairs : U.S. Pat. No. 3289220 to Grimshaw, U.S. Pat. No. 5632526 to McLarty, III et al, U.S. Pat. No. 6408796 to Hampel, and U.S. Pat. No. 5015034 to Kindig et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephanie N. Harris whose telephone number is 703-305-1838. The examiner can normally be reached on Monday from Friday to 9am-5pm.

The fax phone number for the organization where this application or proceeding is assigned is 703-305-7687.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

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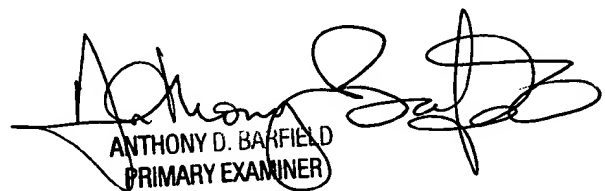
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SNH

August 6, 2002



ANTHONY D. BARFIELD
PRIMARY EXAMINER